APPENDIX "A"

NO. 17,822

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

CLARENCE LOTHRIDGE, ZORINA BARNETT

Defendants-Appellants

Before: PHILLIPS, PECK and MCCREE, Circuit Judges.

This is an appeal from a judgment of conviction, following jury trial, of the defendants-appellants under a multiple count indictment charging violations of narcotics statutes. Minimum sentences required by statute were imposed as to each defendant-appellant which are not under attack on this appeal. Additional sentences, in neither case of greater duration than the required minimum just referred to, were imposed under other counts, and it is the convictions under those counts which defendants-appellants here seek to have reviewed. Where a sentence under a count not challenged on appeal is not in excess of sentences imposed under other counts and provided to run concurrently with the former it is unnecessary to consider the validity of such additional convictions on appeal. *Hirabayaski* v. *United States,* 320 U.S. 81 (1943); *United States* v. *Romano,* 382 U.S. 136 (1965); see also *Zachary* v. *United States,* 275 F.2d 793 (6th Cir. 1960). Accordingly,

It Is Ordered that the judgment of the District Court be and it is hereby affirmed.

APPENDIX "B"

NO. 17,822

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

CLARENCE LOTHRIDGE, ZORINA BARNETT

Defendants-Appellants

Before: PHILLIPS, PECK and MCCREE, Circuit Judges.

The petition for rehearing filed herein presents issues which were available but which were not presented in the briefs and oral argument on appeal, and upon consideration,

It Is Ordered that the petition for rehearing be and hereby is denied.

APPENDIX "C"

Sixth Amendment to the Constitution
of the United States

In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence.

Title 21, Sec. 174

Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction contrary to law, or receives, conceals, buys, sells or in any manner facilitates

the transportation, concealment or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported or brought into the United States contrary to law, or conspires to commit any such acts in violation of the laws of the United States . . . (shall be punished).

Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

Title 26, Sec. 4705(a)

It shall be unlawful for any person to sell, barter, exchange or give away narcotic drugs except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged or given on a form to be issued in blank for that purpose by the Secretary or his delegate.